

PUBLIC HEARING
 PROPOSED AMENDMENTS
 CHAPTER 300, ZONING LOCAL LAW
 WEDNESDAY, AUGUST 6, 2008; 7:00 P.M.
 NEW WINDSOR TOWN HALL
 NEW WINDSOR, NEW YORK

BOARD MEMBERS PRESENT: Supervisor Green, Councilwoman Mullarkey, Councilwoman Weyant, Councilwoman Biasotti, Councilman Lundstrom

OTHER OFFICIALS PRESENT: Town Attorney Blythe, Comptroller Finnegan, Police Lieutenant Farbent, Highway Superintendent Fayot

SALUTE TO FLAG

Before calling to order the Public Hearing, Supervisor Green extended the condolences of himself and the Town Board to Tony D'Angelo, a Justice Court officer and the former head of the Auxiliary Police on the untimely passing of his son, Anthony.

The Town Clerk presented proof of publication as required by law.

Supervisor Green said that tonight's public hearing is to consider proposed amendments to the Zoning Code affecting Section 300-3 Zoning Districts, Section 300-4 Zoning Map, Section 300-18 Senior Citizen Housing and Section 300-18.1 Totally Affordable Senior Citizen Housing.

Supervisor Green explained that currently the sections of the zoning law that apply to senior citizen housing cover the entire Town. The proposed amendment, shown in blue on the map, will pull back the zone to the portion of Town east of the New York State Thruway and some western parcels along Mount Airy Road. The western end of Town, or the white portion on the map, will no longer be usable for purposes of senior citizen housing. The Town Board is doing this in keeping with some of the recommendations of the Draft Master Plan and to maintain the rural character of the western end of town. Under Section 300-18 of the Town Code, the Town Board can issue a Special Permit for a density of up to 14 units for senior housing. Speaking of senior housing, I received a letter today that is totally erroneous and obviously the writer is not aware of what the law says. The letter referred to it as high density, high impact on the school and obviously with senior housing, there is no impact on the school. Supervisor Green asked the Town Attorney to clarify what the proposed amendments mean.

Town Attorney Blythe said that besides changing the zoning map, the proposed local law will also clarify the application process and the procedure on how an applicant can get in front of the Town Board and Planning Board. The applicant will go to the Planning Board, the Planning Board will determine if the application is complete, then refer it to the Town Board. The Town Board will give the Planning Board a preliminary idea as to whether they are interested in the project or not. If the Town Board gives a positive consideration, it is then referred back to the Planning Board where the environmental or SEQRA process is completed. When that process is completed and if the Planning Board gives the project a positive recommendation, it then goes back to the Town Board for the approval or disapproval of a special use permit. The written changes to the law has nothing to do with where the projects are going to be located.

Supervisor Green said that if the Town Board does nothing this evening, nothing changes, the entire Town will remain affected by the current zoning code. If the Town Board acts to approve the amendments, the zone shrinks back to the blue portions shown on the map. Supervisor Green then asked if anyone wished to speak about the proposed amendments to the zoning local law.

Joe Marotta, Marotta Drive, asked if the blue portions of the map represented where proposed senior housing is now going to be allowed. Supervisor Green said that the blue areas will be the only areas covered by the proposed amendments. Supervisor Green also said that as it exists now, the entire Town is subject to the senior citizen housing code. The proposed amendment will decrease the area affected.

PUBLIC HEARING
 PROPOSED AMENDMENTS
 CHAPTER 300, ZONING LOCAL LAW
 WEDNESDAY, AUGUST 6, 2008; 7:00 P.M.

Diane Newlander read a letter from William Steidle as he was unable to attend but had comments he wished to present to the Board. Mr. Steidle is strongly opposed to the proposed revisions involving those parcels west of the thruway which are adjoining or closely adjoining the Silver Stream Reservoir (Brown's Pond). He wrote that the Brown's Pond watershed, because it is small, makes it susceptible to pollution and water quality degradation due to limited runoff and lack of streams feeding into the Pond. He feels that more high density housing will cause further stress and possible loss of this water supply in the future. He wrote that the proposed zoning is not consistent with existing land use, current zoning and or with the final draft master plan.

He also wrote that the proposed zoning is not compatible with existing water supply facilities and uses and he feels that a failure to protect the City of Newburgh watershed lands may jeopardize inter-municipal water agreements and future sharing of water resources. He feels development will cause portions of the aquifer to become unusable and there will be other significant adverse impacts on our water supplies and that a draft environmental impact statement should be prepared. (Mr. Steidle's letter attached to the minutes.)

John Platt, City of Newburgh Water Superintendent, had prepared comments from Marc Gerstman, an attorney acting for the City of Newburgh. He said these comments are being offered because Brown's Pond is a secondary source of water for the Town of New Windsor and the City of Newburgh. The City of Newburgh would like the elimination or relocation of those parcels of land in the western section of the overlay district or a modification to incorporate buffer or other watershed protection requirements. If that cannot be done, they feel the Town should prepare an environmental impact statement. In addition, the proposed amendment should mandate consultation with the City of Newburgh before projects are approved for this section of the overlay district. The written comments also said that New Windsor's Draft Comprehensive Plan Update recommended creating a watershed protection overlay that covered the entire Brown's Pond watershed and set additional limits on development density or site coverage. City of Newburgh feels that the possible intensive residential development would create contamination risks similar to those faced by Washington Lake, which is the City of Newburgh's primary water source.

Mr. Platt went on to say that the proposed overlay surrounding the west and northwest area of Brown's Pond have little or no existent buffers between any proposed development and the reservoir. For some parcels the only separation is Mt. Airy Road. The development allowed within the overlay seems to be far denser than existing developments in the area and the overlay provides no additional protection for the reservoir such as setbacks, buffers and additional stormwater management controls. He explained that Brown's Pond is an extremely shallow pond, only being about twelve feet deep. It does not have any constant streams which feed it and does not have a constant discharge which means that the reservoir cannot flush itself so any water entering that has impurities, just sits there unless a heavy rainfall helps to wash it out. When water is taken out, it takes a long time for the reservoir to recharge. He said it is important that New Windsor and the City of Newburgh work together to protect this natural resource. Mr. Platt concluded by thanking the Town Board for their time. (Written comments of Marc Gerstman are attached to the minutes.)

John Gephardt representing the Orange County Open Space Alliance read a letter from that group urging the Town Board to revise the proposed zoning amendments to remove the high density overlay provision for the area around Brown's Pond and to immediately implement land use and stormwater management controls in order to maintain a long term supply of safe, potable water for residents of New Windsor and the City of Newburgh. Attached to his letter are photographs showing Brown's Pond over a six year period. (A copy of the letter is attached to the minutes.)

Kirk Williams understands the Town wants to preserve the rural quality of the western portion of the Town, but wanted to know why that one island of land west of the Thruway was included in the proposed overlay. Supervisor Green said he would respond to his question later in the meeting.

PUBLIC HEARING
 PROPOSED AMENDMENTS
 CHAPTER 300, ZONING LOCAL LAW
 WEDNESDAY, AUGUST 6, 2008; 7:00 P.M.

Frank Bedetti said he is a resident and a member of the Master Plan Committee and he reminded the Town Board that the Committee went to great lengths to protect the designated watershed protection zone and the parcels west of the thruway fall in the middle of the proposed protection zone. He said the Draft Master Plan recommends that portions of the high density residential zoning on the western edge of Brown's Pond, currently zoned R-3, be converted to a lower density zone, such as R-1 and R-2. Mr. Bedetti said he had attended several meetings, both Planning Board and Town Board, where these proposed amendments were referred to as outgrowths of the Master Plan and he said that there are some similar elements. Mr. Bedetti said he agrees with forming an overlay zone and the proposed procedural changes. He does not agree with having the parcels west of the Thruway included in the overlay zone. He said that that portion was certainly not a recommendation of the Master Plan Committee.

Diane Newlander said she is in favor of senior housing but she feels concern that some of the developers looking at that property are people associated with a certain community south of New Windsor where growth is very, very, very dense. She said that instead of the only options being that the Town Board do nothing about the proposed amendments or approving them, a third alternative would be eliminating the parcels west of the Thruway from the proposed overlay zone for age restricted senior housing. She feels that the amendments are a poster child for what not to do and will help destroy a wonderful resource.

Leo Braun asked if that matter of the elimination of the parcels west of the thruway could be put into a proposition and voted on and Supervisor Green said that there was no mechanism in place for that.

Richard Schaffner, Jackson Avenue, said that he is currently included in the proposed overlay and asked that the zoning not be changed for his property.

Anthony Incanno, read a prepared letter that had also been mailed to the Town Board, which said that the proposed high density rezoning amendment will have regional impact on the taxpayers of the Cornwall Central School District forcing school taxes to go even higher and asked that the Town act in cooperation with the neighboring school districts before any development projects are approved. He said that in Cornwall, a 451 home senior project was partially built but is not selling. The developer is now asking if the project can be changed from senior citizen only to being available to anyone. (A copy of letter is attached to minutes.)

Bert Merone, Mt Airy Road asked if the parcels west of the thruway are something new that are being added to the zoning map or is it something that has always been there. Supervisor Green explained that currently the whole Town is included in zoning for senior housing. The new amendments would shrink down the area where senior housing projects would be allowed. Mr. Merone then asked why the parcels west of the thruway along Mt. Airy Road were still going to be included. Supervisor Green said he would respond to that later in the meeting.

Sue Lennon of Cornwall asked which school district the Brown's Pond area is in. Supervisor Green said that part of it is in Cornwall and part is in Washingtonville. She also asked if senior citizen housing could be changed in the future to open residential housing.

John Alva, Mt. Airy Road, said that he thinks the reason the Cornwall senior housing projects was not selling was due to poor marketing. He said Mt. Airy Road is already a heavily populated area with the Reserve, Forest Glen and Briarwood Subdivision and utilities were run through that area for that reason. He wanted everyone to be aware that no Hassidic people had come to talk about his property.

Fran Maxwell asked the Supervisor if he could speak a little louder.

PUBLIC HEARING
 PROPOSED AMENDMENTS
 CHAPTER 300, ZONING LOCAL LAW
 WEDNESDAY, AUGUST 6, 2008; 7:00 P.M.

Supervisor Green hearing no one else wishing to speak, entertained a motion to close the Public Hearing.

MOTION - CLOSE PUBLIC HEARING

Motion by Councilwoman Weyant, seconded by Councilwoman Mullarkey that the Town Board of the Town of New Windsor close the Public Hearing in the matter of amendments to Sections 300-3, 300-4, 300-18 and 300-18.1 of the Town of New Windsor Zoning Code regarding Senior Citizen Housing and Totally Affordable Senior Citizen Housing, at 8:04 P.M.

Roll Call: All Ayes

Motion Carried: 5-0

Supervisor Green said that a lot of things had been discussed tonight and now he was going to address some of the comments. The first item he was going to comment on was the City of Newburgh. He said that the City has had more than ample opportunity to comment when the zone was first created to make their comments. He said you can always shade the truth by omission and the City of Newburgh knows that we are dealing with the City of New York because they are part of the process. He went on to say that he was very unhappy with Newburgh right now for walking in here tonight and presenting us with these comments. They have known about this for quite a while and never once has the Newburgh City Manager picked up the phone to discuss it. They know that we are in discussion with the City of New York to make certain changes in the aqueduct system that will allow us to put Delaware water into the Catskill Aqueduct so when there are times of high turbidity, we will have clean, fresh water from the Delaware. They know that there is a meeting on August 27 in the Orange County Executive's office on this matter and that was conveniently omitted from their documents. Also conveniently omitted is the fact that New Windsor and Newburgh have entered into an agreement and part of that is that all land surrounding Brown's Pond will be subject to very stringent watershed regulations. They also know that in August there is another meeting at the County Executive's office with the Land Trust to address the lands on the east side of Brown's Pond. Hopefully either a conservation easement will be created or the Land Trust may buy it outright to protect the watershed.

Supervisor Green said that he was very upset with the City of Newburgh. He said he would not have done this to them in this way and believes that they have taken the position of a couple of people and have had meetings with a couple of people and that they are representing some special interests. He said it is not right for one municipality to do to another and he said he would address that with the City Manager.

Supervisor Green said that Kirk Williams had asked why those parcels west of the Thruway were included in the overlay zone and the reason is because there are already several dense developments around there and drainage, water and sewer are already available making it a good location for a project with the possible addition of some pump stations.

Supervisor Green said that he had an upsetting conversation the other day with someone and the same subject was referred to here tonight when somebody said that a certain community south of us is looking to buy up all that property. He doesn't believe that to be true, but if it is true, he feels they happen to be American citizens and have the same rights as you and I. Although we might not want to see that kind of density and we surely don't, it is their right and I almost consider those remarks prejudiced and I go out of my way to prevent prejudice. Those remarks are not germane to the tonight's issue.

Someone referred to the change of use of condos. Condos are subject to offerings by the Attorney General and once those offerings are filed and once the prospectus is filed with the Attorney General, it is what it is and it stays that way into perpetuity, there is no changing it. That would be a fear of mine also if I didn't know how difficult it was just to get a condo through the Attorney General's office.

PUBLIC HEARING
 PROPOSED AMENDMENTS
 CHAPTER 300, ZONING LOCAL LAW
 WEDNESDAY, AUGUST 6, 2008; 7:00 P.M.

Supervisor Green said let's move on to other things in relation to this land and people who might be shading things for their own self interest. Supervisor Green asked a local farmer in the audience and the owner of a local golf course, both of whose properties are located near Brown's Pond, how long they had used pesticides, fertilizers and manure on their properties and if they used current regulations to regulate stormwater and runoff into Brown's Pond. Both said they had used fertilizers and pesticides for years with no drainage and runoff protection.

Supervisor Green said that when we are talking about condos and MS4 regulations and stormwater regulations, it seems that we are talking about controlling the runoff, talking about filtering what runs off. He said that current regulations are very, very stringent and very costly. When we develop our stormwater regulations, we are going to be very strict on what fertilizers and pesticides can be used in that area simply because we are concerned with Brown's Pond. He said that he didn't know if it would remain as a viable water source, but it is a beautiful, scenic area and the fishing is very good, and he doesn't want to see anything destroy it anymore than anyone else does.

As to those pictures that were shown earlier, one of the pictures is an infrared photograph taken in 2001 that really shows nothing, the next one is dated 2004 after the Reserve which project dates back to the 1970's, the next photograph dated 2007 is a photograph taken during a severe flood event and it shows the west side of Brown's Pond where it is cut across by Mt. Airy Road. It shows a plume going into Brown's Pond which was because of the vegetation being removed by The Reserve and that matter is being resolved. As the vegetation is put back, he said the situation will return to normal.

Referring to the letter received from Tony Incanno on the impact of high density housing on the Cornwall School District, Supervisor Green pointed out that as it is seniors only, there will be no impact on the classroom.

Bill Steidle wrote a comment about the proposed zoning deviating from recommendations. Supervisor Green said that the fact is the proposed amendment does not alter the current zoning in the Brown's Pond area and it appears that the real intent of the comments was to exclude senior type projects in that zone. Mr. Steidle also states that the proposed zoning is not consistent with existing land uses, and the Supervisor said that that is blatantly wrong. The current senior overlay zone is part of the entire Town of New Windsor, they are permitted everywhere now. There is no zone change on those parcels. Mr. Steidle also says that the proposed zoning will result in a significant adverse impact on water supplies, historic resources, agricultural lands and cause increased traffic. The Supervisor said the fact is the proposed changes have all been approved by the Orange County Planning Department with only minor comments. If Bill's statement was true the Planning Department would not have commented on this favorably. Mr. Steidle also states that the failure to protect the Newburgh watershed could jeopardize Intermunicipal water agreements. The fact is the Town and the City have entered into two separate landmark agreements within the last twenty-two months. One of agreements states the Town will take all necessary and prudent precautions that are required by law and regulation where there are possible adverse impact to Brown's Pond or Washington Lake watersheds and will the town will diligently apply the City's watershed protection rules to use of these areas.

Town Attorney Blythe by way of clarification explained the proposed amendments again. He said that if you were to take the map before any zoning amendment changes were made, the entire map would be blue which would include the entire Town of New Windsor. That is where senior citizen projects are allowed today. There are currently three pages of regulations in the zoning code which restricts whether the Town Board or Planning Board can allow a senior citizen project. A project has to have public water and sewer, it must be next to certain amenities, and there are a host of rules that go along with where to place a senior citizen project. This has been traditionally done by the Town Board and Planning Board. If we do nothing tonight, this entire map stays blue, we are not adding anything to the senior citizen districts,

PUBLIC HEARING
 PROPOSED AMENDMENTS
 CHAPTER 300, ZONING LOCAL LAW
 WEDNESDAY, AUGUST 6, 2008; 7:00 P.M.

we are subtracting the ability of people to put senior citizen housing projects in the area of the Town which is white (on the map). If someone then comes and wants to put a senior project on Toleman Road, or Station Road or Bull Road, they can't do it there anymore; but if we do nothing, that is still allowed. So just remember we are not adding senior citizen, we have no particular projects planned, but because of the infrastructure that is here, this is a potential place for a senior citizen project as is the entire eastern end of Town, it is a subtraction of all this area in white from the ability of developers to come in and put senior citizen projects anywhere, and the areas in blue are just remaining the same.

Supervisor Green said that any project is subject to the approval of the Town Board. The Town Board has to look very carefully at every single project, however I do have a reservation tonight and I am going to ask the Board for a motion to table this. I would like an opportunity to look over the comments written by Marc Gerstman, I am not pleased with being presented with them at the eleventh hour but I will entertain a motion from the Town Board to table the resolution approving the proposed local law regarding senior housing.

MOTION - AUTHORIZATION TO TABLE ACTION-PROPOSED AMENDMENTS TO CHAPTER 300 ENTITLED "ZONING"

Motion by Councilwoman Weyant, seconded by Councilwoman Mullarkey that the Town Board of the Town of New Windsor TABLE action regarding the proposed Amendment to Chapter 300 entitled "Zoning"; Sections 300-3, 300-4, 300-18 and 300-18.1 of the Town of New Windsor Zoning Code.

Roll Call: All Ayes

Motion Carried: 5-0

Supervisor Green said it was an interesting discussion and thanked everyone for their comments. He said the Town Board is going to go back and review all the documents submitted and everyone's comments. He said he doesn't know that any comments have changed his mind about the parcels and he doesn't know if any of documents will change his mind, but they certainly will take another look at it and as of right now, if somebody comes in with a project, they are going to get in under the wire.

Respectfully submitted,

DEBORAH GREEN
 TOWN CLERK

/clc